REMARKS

Claims 1 and 3-40 are pending in the present application. In the Office Action mailed November 20, 2006, the Examiner rejected claims 1, 3-5, 9-11, 15, 18, 33-35, and 38 under 35 U.S.C. §102(b) as being anticipated by Li et al. (USP 6,269,501), hereinafter "Li." The Examiner next rejected claim 40 under 35 U.S.C. §102(e) as being anticipated by Moore (USP 4,181,858). Claims 19-23, 25-27, 30, 32, and 39 were rejected under 35 U.S.C. §102(e) as being anticipated by Earnst et al. (US Pub. 2005/0085710), hereinafter "Earnst." Claims 6-7, 16-17, 36-37, and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Li or Earnst in view of Popescu (USP 6,501,828). Claims 8 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Li in view of Katsumata et al. (USP 4,558,458). Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Earnst in view of Scheibengraber (USP 4,538,289). Claims 28-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Earnst in view of Li.

The Examiner objected to the Specification for failing to describe "a computer programmed to associate subject-position feedback with data derived from a detector for high frequency electromagnetic energy" as called for in amended claim 1, and for failing to describe "a processor to compare feedback to an image data both from a detector array" as called for in claim 9. Clearly, one skilled in the art would recognize that data received in a scout scan is received by the detector array of an imaging device as described throughout the specification. Applicant's current amendment clarifies the association.

Claims 13-15 were objected to by the Examiner. The Examiner alleged that claim 13 at line 2 lacks proper antecedent basis for "the at least one processor." Applicant respectfully disagrees. Claim 13 depends from claim 9 which calls for, in part, "a computer readable storage medium having stored thereon a computer program representing a set of instruction which, when executed by at least one processor, cause the at least one processor to..." Clearly, "at least one processor" of claim 9 establishes the basis for "the at least one processor" of claim 13.

Claims 14, 15 and other claims were objected to for informalities throughout. Claim 9 was amended to correct for the objection related to the antecedent basis of "the at least one sensor" of claim 14. Furthermore, claims 15-18 were amended to correct "the at least on processor" as "the at least one processor." Applicant thereby believes that all claim objections due to informalities have been corrected.

The Examiner rejected claims 1, 9, 33, and 38 under 35 U.S.C. §102(b) as being anticipated by Li. Li teaches a method for automatically positioning an object on a movable table

using a pre-scan scout. *Li., '501*, Abstract. From the scout data, "high and low edges and a center of the object are determined as a function of the location of the object in a z-axis direction." *Id.*, Col. 1, lns. 59-61. Claims 1, 9, 33, and 38 have been amended accordingly. In particular, claim 1 has been amended and now calls for, in part, a computer programmed to associate subject-position feedback with data derived from at least one scout scan and at least one sensor to provide subject feedback in a z direction to determine patient contour. Claim 9 has been amended and now calls for, in part, at least one processor to receive feedback regarding a subject position from at least one sensor and at least one scout scan of an imaging device. Claim 33 has been amended and now calls for, in part, a computer programmed to perform two orthogonal scout scans, and associate the subject-position feedback with data derived from the two orthogonal scout scans. Claim 38 has been amended and now calls for, in part, at least one processor to receive feedback regarding a subject position from at least one sensor and from at least one scout scan of an imaging device. Each of these amendments clarify the claimed subject matter, and clearly define the claims over the art of record.

Accordingly, that which is called for in claims 1, 9, 33, and 38 is not disclosed or suggested in the art of record. As such, Applicant believes that claims 1, 9, 33, and 38 and the claims which depend therefrom, are patentably distinct over the art of record.

The Examiner next rejected claim 40 under 35 U.S.C. §102(e) as being anticipated by Moore. Applicant will assume the Examiner meant a §102(b) rejection and will respond accordingly since Moore has a filing date of Dec. 30, 1977 and an issue date of Jan. 1, 1980. Moore teaches an optical detector system to adjust a CT apparatus for different body sizes. *Moore, '858,* Abstract. Claim 40 has been amended to clarify that positioning information of the subject is collected from at least one sensor disposed in proximity to the imaging device and from a scout scan.

Claim 40 was also rejected under 35 U.S.C. §103(a) as being unpatentable over Li or Earnst et al. in view of Popescu. However, in light of the aforementioned amendments to claim 40, Applicant believes the claim is patentably distinct and the rejection under 35 U.S.C. §103(a) is rendered moot.

Accordingly, that which is called for in claim 40 is not disclosed or suggested in the art of record. As such, Applicant believes that claim 40 is patentably distinct over the art of record.

Claims 19 and 39 were rejected under 35 U.S.C. §102(e) as being anticipated by Earnst. Earnst describes "a controller for controlling the motion of the support device so that the treatment target within the patient is properly aligned with respect to a radiosurgical treatment

apparatus throughout the treatment." *Earnst, 2005/0085710,* Abstract. A controller 130 controls the motion of an x-ray source 14, as well as the motion of a support device 110. *Id.*, ¶ 20. "In other words, the controller 130 controls the relative motion of the support device 110, with respect to the robot-implemented motion of the x-ray source." *Id.* "One or more table position sensors 150 are provided to sense the position of the table 110." *Id.*, ¶ 23. Notably, the sensors 150 of Earnst sense the position of the table and not the patient.

Claims 19 and 39, on the other hand, call for "collecting positioning information of the subject from both at least one sensor disposed in proximity to the imaging device, and from the detector array" (claim 19) and receiving "feedback regarding a subject position from at least one sensor of an imaging device" (claim 39). This distinction cannot be overlooked since one skilled in the art will readily appreciate that the relative positions of the table and the patient are not synonymous, and knowing the relative position of the patient is much more useful than the relative position of the table. Accordingly, that which is called for in claims 19 and 39 is not taught or suggested in the art of record. As such, Applicant believes that claims 19 and 39, and the claims which depend therefrom, are patentably distinct over the art of record.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1, 4-11, and 13-40.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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